HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No.909 of 2003 (MS)

Smt. Savitri Vasta w/o Sri Om Prakash,
R/o of Khurbura Mohalla, Dehradun. ……..Petitioner

Versus

1. Civil Judge, (S.D.) Dehradun.
2. Smt. Pratima Vasta w/o Pramod Kumar,
   7-A Khurbura Mohalla, Dehradun.
3. Sri Akasht Kumar Vatsa s/o Sri Pramod Kumar
   7-A Khurbura Mohalla, Dehradun
4. Smt. Deepti Chaudhary W/o Major Naresh Chaudhary
   44- Armed Core, c/o 56- APO

…….. Respondents

Sri B.P. Nautiyal, Advocate for the petitioner
Standing counsel for the respondent no.1.

Hon'ble Rajesh Tandon J.

The present writ petition has been filed praying for a writ order or directing in the nature of mandamus commanding respondent no.1 to decide suit no.312 of 2002 Smt. Savitri Vatsa vs. Pratima Vatsa and others.

Heard the learned counsel for the petitioner.

Earlier Writ Petition No.701 of 2003 (MS) was filed by the petitioner and the same was disposed of on 1st August 2003 with the following observations:

"The petitioner shall be at liberty to move an application within a month before the Civil Judge (SD), Dehradun for expedite the hearing of the suit. The Civil Judge (SD) after considering the

pendency of the cases etc. shall pass appropriate order on the application within a month."

Again the present writ petition has been filed with the same relief. Chapter 22 Rule 7 of the Rules of the Court provide as under :

"No second application on same facts:- *Where an application has been rejected. It shall not be competent for the applicant to make a second application on the same facts."*

As will appear from the aforesaid rule that successive writ petition on the same facts is nothing but abuse of the process of the C. It has been held in the case Saheb Lal vs. Assistant Registrar 1995 (1) U.P. Local Bodies and Educational Cases that the second writ petition is abuse to the process of the Court. The observations are quoted below:

"Besides Chapter XXII Rule 7 of the Allahabad High Court Court Rules, reference may also be made to the decision rendered in I.S. Tripathi vs. B.H.U. 1993 (1) UPLBEC 448, wherein it has been held that filing of successive writ petition on the same facts and grounds, apart from being abuse of process of court, is against public policy."

In the light of above facts and circumstances the writ petition is not maintainable. However, it will be open for the petitioner to file an application for amendment in the earlier writ petition, if he so advised.

The writ petition is, therefore, dismissed.

(Rajesh Tandon, J.)

17.09.2003
Dhyani